

REMARKS

This Amendment is being filed in response to the Office Action dated January 8, 2007. Claims 7-10 are currently pending in the application, all of which stand rejected. Of these, claims 7 and 9 are independent. By this Amendment, claims 7-10 have been amended, and claims 11-14 have been added, of which claims 11, 13 and 14 are independent. No new matter has been added. Applicants respectfully submit that the amendments have been made to better clarify the invention as claimed and not to narrow or limit the scope of the claims in any way. Applicants respectfully request reconsideration in light of the amendments and remarks herein.

Claim objections and Rejection under 35 U.S.C. §112

Claims 8 and 10 are objected to and rejection under 35 U.S.C. §112 as being indefinite because according to the Examiner, claims 8 and 10 are directed to the method of making a bag. In this Amendment, claims 8 and 10 have been amended to clarify that the claims are directed to providing bags having foil side walls, and not to the method of producing such bags.

Double Patenting Rejection based on U.S. 6,681,547

Claims 7-10 stand rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1, 3, 7, 9, 10, 12, 15 and 17 ('547 Claims) of U.S. Patent No. 6,681,547 ('547 patent). The Examiner states that the '547 patent anticipates the invention as claimed. Applicants respectfully submit that '547 Claims do not disclose or suggest the claims as presented herein. More specifically, the '547 Claims fail to disclose or suggest at least providing a plurality of straws above the conveyor belt, providing straws at an acute angle to the conveyor belt or providing straws substantially parallel to a side wall of the bag. Accordingly, Applicants respectfully request withdrawal of the rejection.

Rejection under 35 U.S.C. §102

Claims 7 and 9 stand rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 4,584,046 to Geyssel (“Geyssel”). Applicants respectfully submit that Geyssel fails to teach or disclose providing straws from above the conveyor belt, as required in claims 7 and 9 as amended herein, and further in newly added claims 13-14. In contrast, Geyssel is directed to providing straws from a position next to the conveyor belt. Referring to FIGS. 1-2, Geyssel is directed toward a wheel (20) positioned on a carrier (14) adjacent to the conveyor belt. Referring to FIG. 1 and column 4, lines 14-17, the carrier (14) can be rotated about axes (15, 16). One of ordinary skill in the art would understand that the wheel (20) is not “above the conveyor belt” as claimed. Rather, even if carrier 14 were rotated about axes (15, 16), the wheel (2) would not be positioned above the conveyor belt. The system of Geyssel would require dismantling and rearranging in order to provide “a plurality of straws from above the conveyor belt” or “a transfer assembly positioned above the conveyor belt.” Accordingly, Geyssel fails to teach or suggest, but rather, teaches away from the invention as claimed.

Accordingly, Applicants respectfully submit that the claims are in condition for allowance and request withdrawal of the rejection.

CONCLUSION

Applicants respectfully submit that all outstanding rejections have been addressed and are now either overcome or moot. Favorable consideration and prompt allowance of this application is respectfully requested. In the event that there are any questions, or should additional information be required, please do not hesitate to contact Applicants' attorney at the number listed below.

No fee, other than the two-month extension of time submitted herewith, is deemed necessary in connection with the filing of this Amendment. However, if any fee is due the amount of such fee may be charged to Deposit Account No. 19-4709.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'S. B. Pokotilow', is written over a horizontal line.

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